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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,233	10/16/2001	W. Stephen G. Mann		4476

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CANADA

03/25/2008

EXAMINER

LABBEES, EDNY

ART UNIT	PAPER NUMBER
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2612

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/978,233	<b>Applicant(s)</b> MANN, W. STEPHEN G.	
	<b>Examiner</b> EDNY LABBEES	<b>Art Unit</b> 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>appendix</u> .                         |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant claims “a user-specific non-suspiciousness accumulator...”. This term used was not distinctly disclosed in the specification and thus is indefinite.

3. Claim 5 is rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited. Applicant placed a period “.” In the middle of claim 5.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3, 10, 13-15, 17 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by DeLaHuerga (US 6,408,330).

Regarding Claim 1, DeLaHuerga discloses *Remote Data Collecting And Address Providing Method And Apparatus* that teaches a system to ensure that a person who logs on is the authorized user (See Col. 14 lns 16-28) wherein the system comprises an ICD (information collection device) recognizer that recognizes a user. For example, the ICD identifier can be a finger print reader which compares a user's print to an ICD owners print using a terminal. Where the ICD recognizes a user, the ICD participates in an interrogation by a proximate terminal to gain access to the terminal (See Col. 14 lns 15-28). In addition, DeLaHuerga also discloses a system where the ICD is equipped to collect video information (See Fig. 21 and Col. 60 lns 43-58). Furthermore, provided that the ICD having access privileges to the computer terminal (60) has been identified; The security verification system (168) determines whether or not to require the entry of

a password to enable log on by the physician. This procedure provides a safeguard should the ICD be stolen, deterring unauthorized log on attempts with the threat that the security verification system will detect the breach and apprehend the violator.

Regarding Claim 2, DeLaHuerga discloses a system where the information gathering system comprising an information collection device (ICD) is equipped to remotely, automatically and electronically collect a large portion of the information that a physician may be required to provide during each of several different patient visits (See Col. 9 Ins 5-14).

Regarding Claim 3, DeLaHuerga discloses a system where the ICD is to be used with other "smart" devices in a medical facility to collect information which describes facility events. For example, one "smart device" maybe an IV pump which includes a processor, a memory, and a transmitter. During a patient's stay in a facility, if the IV pump is connected to the patient, the pump processor monitors all pump activity including type and amount of fluid dispensed and time of administration. Information collected by the pump is assembled into an information segment. When a physician visits the patient, the pump processor transmits the information segment to the physician's ICD (See Col. 9 Ins 13-23). Other examples are presented where the "smart devices" may include other medical components (See Col. 9 Ins 24-40).

Regarding Claim 10, the claim is interpreted and rejected as claim 1 stated above.

Regarding Claim 13, the claim is interpreted and rejected as claim 1 stated above.

Regarding Claims 14 and 15, DeLaHuerga discloses a system comprising a fingerprint pad activation button for authorization purposes. However, the invention is not meant to be so limited and any other recognizable biometric indicia or uniquely personal bio-medical indicia could be used to activate a properly configured activation button, such a retinal scanner, voice recognition identifier, skin texture identifier, etc (See Col. 32 Ins 39-55).

Regarding Claims 17 and 18, the claims are interpreted and rejected as claim 15 stated above.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4-9, 11, 12, 16, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeLaHuerga (US 6,408,330).

Regarding Claims 4 and 5, the claim is interpreted and rejected as claim 1 stated above. In addition, discloses an audio sensor but does not specifically disclose where the sensors are located. However, as long as the system performs its desired functionality, it would have been obvious to one of ordinary skill to readily recognize that providing the sensors at the desired location does not add functionality nor criticality to the system and would not constitute an inventive concept but an obvious design choice.

Furthermore, DeLaHuerga does not specifically disclose a system where the fixture is made the components as disclosed by the applicant. As stated above, since it does not add criticality nor functionality to the claims, one ordinary skilled artisan would have readily recognize that as long as the system performs its desired functionality, the material of the fixture would not constitute an inventive concept but an obvious design choice.

Regarding Claims 6-9, DeLaHuerga does not specifically disclose a system where it is located in an area to observe users, such as a locker room, or a bathroom facility or a airport security. However, DeLaHuerga discloses that the system is not limited and clearly has applications which are outside a medical facility. As long as the system is applicable outside the medical facility, it would have been obvious to one of ordinary skill in the art to readily recognize that the system of DeLaHuerga can be of

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intended use and can applicable outside the medical facility, such as the  
aforementioned locker rooms, bathrooms facilities, airport security.

Regarding Claim 11, the claim is interpreted and rejected as claims 6-10 stated  
above.

Regarding Claim 12, the claim is interpreted and rejected as claims 6-9 stated  
above.

Regarding Claim 16, as indicated above in the rejection to claim 8, DeLaHuerga  
discloses a system where a uniquely personal bio-medical indicia could be used to  
activate a property configured activation button, such a retinal scanner, among others  
(See Col. 32 Ins 39-55). However, DeLaHuerga do not specifically disclose that the  
retina scanner is incorporated into a virtual reality headset for being used in a  
videogame. However, since DeLaHuerga performs the desired functionality of using a  
retina scanner, finger print scanner and other biometric limitations, one ordinary skill  
artisan would have readily recognize that using a retina scanner in a virtual reality  
module would not constitute an inventive concept, but an obvious design choice.

Regarding Claim 19, the claim is interpreted and rejected as claims 15 and 16  
stated above.



Regarding Claim 20, the claim is interpreted and rejected as claims 6-12 stated above.

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450

Furthermore, a pro-se appendix will be sent to applicant regarding amendments if applicant chooses to continue prosecution.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDNY LABBEES whose telephone number is (571)272-2793. The examiner can normally be reached on M-F: 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Hofsass can be reached on (571) 272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Edny Labbees  
3/16/2008

/Davetta W. Goins/  
Acting SPE of Art Unit 2612

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